

# **2004 King County Comprehensive Plan Update**

## **Area Zoning Study**

Department of Development and Environmental Services

<b>Study Area:</b>	<b>Designated Mineral Resource Sites Subject to Comprehensive Plan Policy R-555 Evaluation</b>
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### **Summary**

King County Comprehensive Plan Policy R-555 requires the County to re-evaluate whether the designation of a property as a Designated Mineral Resource Site is appropriate when a permit to extract mineral resources is denied. Policy R-555 was adopted in 2001 as part of the 2000 annual Comprehensive Plan review cycle, which was a review and evaluation of the Comprehensive Plan as called for in RCW 36.70A.130(4) and (6).

For the first time since the adoption of Policy R-555, a permit to extract mineral resources has been denied for a Designated Mineral Resource Site. A grading permit for the Duvall Rock Quarry was denied in October 2003.<sup>1</sup> An examination of permit decisions shows that no other such permit applications were denied during this period. As a result, no other Designated Mineral Resource Sites are subject to re-evaluation during the 2004 Update of the Comprehensive Plan.

This parcel of approximately 80 acres is currently designated as Mining on the King County Comprehensive Plan Land Use Map. The existing zoning is M-P, Mineral with a p-suffix development condition. The parcel is a Designated Mineral Resource Site.

The proposed land use designation is Rural Residential. The proposed zoning is RA-10, Rural Residential – one dwelling unit per ten acres. The p-suffix development condition is to be eliminated. Additionally, it is proposed that the site be redesignated Potential Surface Mineral Resource Site on the Mineral Resources Map.

West of the subject parcel there is an associated smaller parcel also owned by Rock Quarry, LLC that currently has a zoning of RA-10 Potential M. It is proposed that the potential zoning be eliminated for that property.

### **Background**

This study was performed in accordance with King County Comprehensive Plan policy R-555. That policy states that when a permit for a mineral resource activity is denied for a project on a Designated Mineral Resource Site, the County shall re-evaluate the property to determine whether the mineral resource designation is appropriate, taking into account all relevant information gathered during the permit review process. On October 16, 2003, King County Department of Development and Environmental Services (DDes) denied the application for a grading permit for mineral extraction on the subject property. Re-evaluation of the Mineral

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<sup>1</sup> The application for the Duvall Rock Quarry was denied pursuant to K.C.C. 20.20.100(A)(1)(b), which explains that failure by an applicant to meet a deadline for the submittal of corrections, studies or other information “shall be cause for the department to cancel/deny the application.”

Resource Site designation was then undertaken so that any recommended changes resulting from this study could be incorporated into the 2004 Update to the King County Comprehensive Plan. The subject property is the Duvall Rock Quarry parcel, a 79.7-acre undeveloped parcel that is located just east of State Route 203 about two miles north of Duvall. The area is known as Cherry Valley. The property is currently zoned Mineral, and surrounded by Rural Residential property, with RA-10 zoning to the north, west, and south, and RA-5 zoning to the east. The western third of the parcel includes the eastern wall of the Snoqualmie Valley, while the eastern two-thirds of the parcel slopes gradually upward to the northeast. There is a creek that flows from the east across the middle of the property, and a waterfall where the creek flows over the valley wall.

Edward W. Hayes purchased the property in 1963. In 1973, the zoning for the property was changed to recognize the planned mineral extraction. The Snoqualmie Community Plan Profile, published in 1982, shows zoning for the property as Suburban Estate (S-E) with Potential Quarry-Mining (Q-M). The Snoqualmie Valley Community Plan Area Zoning, adopted in 1989, applied zoning of AR-10 Potential QM, Rural Residential – 10 acre minimum lot size with potential Quarry and Mining. At that time, the site was reflected on the Mineral Deposits map as a Potentially Zoned Quarry or Mine Site.

In November 1994, the property owner scheduled a pre-application meeting for a rezone to QM, that request was subsequently withdrawn. The rezone instead was submitted as an amendment during the 1994 Comprehensive Plan process at the King County Council. The current zoning of M-P was approved effective February 2, 1995 with the p-suffix development condition requiring that an environmental study or project-specific proposal per the Mineral Resources zoning be commenced within two years of the effective date of the zoning, or the zoning would revert to RA-10. The parcel was also listed as a Designated Mineral Resource Site on the Comprehensive Plan Mineral Resource Map, and was designated as Mining on the Comprehensive Plan Land Use Map.

A pre-application meeting for a grading permit was held October 9, 1995. On July 27, 1998, the owner applied for a grading permit for a hard rock quarry, DDES project number L98G0148. The SEPA required Environmental Impact Study (EIS) for the project commenced on January 5, 2000. In 2003, DDES worked with the applicants to set specific milestones in the process of completing the EIS. On October 16, 2003 the grading permit application was denied due to the applicant's inactivity on the permit.

More information about the parcel is attached.

**Applicable King County Comprehensive Plan Policies:**

**R-206** A residential density of one home per 10 acres shall be applied in the Rural Area where:

- a. The lands are adjacent to or within one-quarter mile of designated Agricultural Production Districts, the Forest Production District or legally approved long-term mineral resource extraction sites; or
- b. The lands contain significant environmentally constrained areas as defined by County ordinance, policy or federal or state law, or regionally significant resource areas or substantial critical habitat as determined by legislatively-approved Basin Plans or Watershed Resource Inventory Area Plans; and
- c. The predominant lot size is greater than or equal to 10 acres but less than 20 acres in size.

**R-552** King County shall identify existing and potential mining sites on the Mineral Resources Map in order to conserve mineral resources, promote compatibility with nearby land uses, protect environmental quality, maintain and enhance mineral resource industries and serve to notify property owners of the potential for mining activities. The County shall identify:

- a. Sites with existing Mineral zoning as Designated Mineral Resource Sites;
- b. Sites where the landowner or operator has indicated an interest in mining, sites that as of the date of adoption of the 1994 Comprehensive Plan had potential Quarrying/Mining zoning, or sites that the County determines might support future mining as Potential Mineral Resource Sites;
- c. Sites where mining operations pre-date zoning regulations but without zoning or other land use approvals as Non-Conforming Mineral Resource Sites; and
- d. Owner-Identified Potential Sub-Surface Coal Sites.

**R-555** King County should remove the Mining land use designation on the Comprehensive Plan Land Use Map and associated Potential Mineral zone or Mineral zoning for any sites that have been denied a rezone to Mineral.

If a grading or other permit necessary for the extraction of mineral resources is denied on a Designated Mineral Resource Site, the County shall evaluate whether such mineral resource designation is appropriate. The re-evaluation process may occur during the annual Comprehensive Plan amendment cycle and information produced during the permit review process shall be used to evaluate the appropriateness of changing the existing designation. If the County determines that the site should not be designated as mineral resource land of long term commercial significance as defined in the Growth Management Act, the site shall be redesignated to a Potential Surface Mineral Resource Site on the Mineral Resources Map and to a land use designation and zoning classification compatible with the surrounding properties.

**R-559** In order to comprehensively assess the environmental impacts associated with a zoning change, conditional use or operating approval for a mining proposal, the range of environmental impacts, including short-term and long-term effects arising or existing over the lifetime of the proposal, shall be assessed at the earliest possible stage. This should include the potential for future proposals for structures and operations related to mining, such as asphalt and concrete batch plants.

**Analysis:**

King County Comprehensive Plan policy R-555 is the basis for this analysis, although other policies also apply. Following is a brief discussion of applicable policies followed by a site-specific analysis pursuant to policy R-555.

R-206 is provided here to explain why surrounding properties in this area are zoned RA-10. Policy R-555 is clear in directing that, if the Mineral Resource Site designation is removed, the property should be rezoned to match that of the surrounding area. Furthermore, the p-suffix development condition also supported RA-10 zoning for the property if rezoned from Mineral. Policy R-555 directs the County to re-evaluate the Mineral Resource Site designation for any site where a permit necessary for extraction is denied, and to rezone the property to match the surrounding area, if the Mineral Resource Site designation is found not to be appropriate for the

property. It also stipulates that information gathered in the permit process should be used in evaluating the Mineral Resource Site designation.

Policy R-559 directs that the environmental impacts of mining uses should be studied at the earliest time possible. This policy is supported by the p-suffix development condition applied to this property, requiring that an environmental study or project proposal be commenced for the property within two years of the application of the M-P zoning on the property.

### **Site-Specific Analysis**

The following analysis is based on the information produced as part of the application and review process for the grading permit and associated permits for resource extraction at the Duvall Rock Quarry site (DDES project number L98G0148).

In an application submitted in 1998, Duvall Quarry, LLC proposed to mine some 60 million tons of andesite at the Cherry Valley site over a period of 50 to 70 years. Andesite is used in construction, particularly for roads projects. As originally proposed, in the first five years, 100,000 to 300,000 tons of rock would be extracted each year. In the following five years, 500,000 tons of rock would be extracted each year. After year 10, it was proposed that between 750,000 and 1.5 million tons of rock would be extracted each year, depending on market conditions.

The subject property is the Duvall Rock Quarry parcel, a 79.7-acre undeveloped parcel that is located just east of State Route 203 about two miles north of Duvall. The property is currently zoned Mineral, and surrounded by Rural Residential property, with RA-10 zoning to the north, west, and south, and RA-5 zoning to the east. The property is roughly rectangular in shape. The western edge of the parcel is formed by an old dirt road, John McGee Road No. 978. The sharp face that forms the east wall of the Snoqualmie Valley and the Cherry Valley rises up east of the road. The wall rises from a level of below 100 feet above Mean Sea Level (MSL) at the road, steeply to 400 feet MSL, and then nearly vertically to a height of 500 feet MSL at the ridgetop. This wall runs from the north end of the property to the south end of the property, with the ridge about one-third of the way across the property from the western boundary. East of the ridge, the property slopes gradually upward to the east and north, becoming nearly flat near the eastern boundary, where the elevation ranges from 520 feet MSL at the southeast corner to 740 feet MSL at the northeast corner.

There is a stream known as Hanstead Creek running east to west that roughly bisects the property. Where this drainage meets the valley wall, there is a waterfall known as McCauley Falls. Hanstead Creek is a Class 2 Perennial stream. Off-site, Cherry Creek, a salmon-bearing stream, runs near the western property boundary south of Hanstead Creek. It runs through a large Class 1 wetlands known as Cherry Creek 50 which borders the property and extends south. Hanstead Creek feeds into Cherry Creek west of the subject property, which in turn feeds into the Snoqualmie River.

The habitat on most of the site is upland deciduous-closed canopy forest, with several small wetland areas near the eastern edge of the property. Vegetation is mainly second-growth forest, big-leaf maples are the dominant tree and red alders are numerous, with residual douglas fir and red cedar near the cliffs. The understory includes sword fern, Oregon grape, youth-on-age, and trailing blackberry. There are numerous small wetland areas near the eastern edge of the property. Wildlife species observed on or near the site include bald eagle, great blue heron,

pileated woodpecker, red-tailed hawk, various songbirds, black-tailed deer, coyote, and beaver. Other species likely to use the site include black bear, cougars, raccoons, various small mammals, various bats, various frogs, garter snakes, and various salamanders. Cherry Creek is a mapped salmon-bearing creek with migratory and resident fish species including chinook, coho, winter steelhead, and chum salmon. A young coho salmon was found in Hanstead Creek immediately west of the subject property during a 1997 study by Pentec Environmental using electroshocking equipment.

In the environmental checklist submitted with their application, the applicants claimed that Hanstead Creek had been miss-classified as a Class 2 stream, and that it should be reclassified as a Class 3 stream, one which is intermittent and does not support salmonids. The mining operation as proposed could proceed only if it was allowed to divert the stream around the mining site. Per KCC 21A.24.370(H), a class 2 stream cannot be diverted in this manner. This is a significant environmental obstacle to mineral resource extraction on the site. As a result, a Reasonable Use Exception would be required in order for mining to be approved on the site. It is highly unlikely that the property would qualify for such an exception because residential use is a viable development alternative for the property. The applicant endeavored to prove that the stream should be reclassified, and stream monitoring studies were initiated to demonstrate that the stream should be reclassified, in a process approved by King County environmental scientists.

Observations by King County specialists and results of studies performed by consultants for the applicant confirmed that there is flow year-round in the stream above the falls. Though no official determination was made, the findings to date support the Class 2P designation for the stream.

In early 2003, the applicant began sketching an alternative operation plan in case it would not be allowed to relocate the stream. This would call for excavating east from the southwest corner, then up behind the valley wall until reaching the southern stream buffer, then excavating east from the northwest corner and south behind the valley wall until reaching the northern stream buffer. This would leave behind an aqueduct-like spit of land in the middle of the property sticking out westward from the new valley wall near the east edge of the property. Little or no environmental study was performed to evaluate this alternative proposal. It is not clear whether this proposal would be more acceptable than the original proposal or that it would eliminate impacts to Hanstead Creek or off-site salmon bearing streams. It would definitely reduce the total amount of quarry rock that could be mined and sold.

Changes to the code that may result if a new Critical Areas Ordinance is passed would change the way streams are classified by King County, to mirror the State DNR ratings. It is unclear exactly how this would affect the classification of Hanstead Creek. However, it is unlikely that any environmental regulations affecting mineral extraction permitting at the site would be relaxed in the near future.

There are a number of possible environmental obstacles to mining the property in addition to the significant issue regarding Hanstead Creek classification and relocation. As a result, a Determination of Significance was issued by DDES in February 2000 requiring a SEPA EIS for the project. That determination noted that an EIS would be required, that a Reasonable Use Exception would be required for relocation of the stream, and that issues to be addressed included impacts to wildlife, noise, transportation, visible natural beauty, and impacts to City of Duvall.

The Seattle Audubon Society owns a 10 acre nature preserve nearby to the east of the site. They expressed concerns about impacts to the bird habitat in the area. Bald eagles, great blue heron, and red-tailed hawk are among the bird species that have been observed near the site in recent years, and there is a bird-viewing area just west of the property. Washington Trout, an association devoted to protecting fish species, worried that chinook salmon and bull trout, both endangered species, could be harmed by the operation's impacts to Cherry Creek.

Studies of noise from blasting were never carried out in such a way that County reviewers could determine compliance with the King County Noise Code. However, DDES environmental health specialists noted that initial testing showed noise levels exceeding allowable limits in some areas.

Washington State Department of Transportation expressed concerns regarding the impact of truck and employee traffic from the site on SR 203. Further study would be necessary before development at the site could proceed. Expected impacts would include reduced level of service on SR-203, reduced air quality, increased noise, increased dust, possible impact to the road itself, and adverse impacts on downtown Duvall as a result of regular truck traffic. Expected necessary improvements by the time of full operation at the site as originally proposed include additional lanes in both directions of SR-203 between the site and Duvall, and construction of a truck by-pass around downtown Duvall. The City of Duvall expressed concern about impacts to Woodinville-Duvall Road as well.

Because of the long delays in progress on the EIS between 2000 and 2003, a schedule for accomplishing specific milestones in progressing toward completing the EIS was established by DDES with Duvall Rock Quarry, LLC. Between May and June 2003, most of the tasks were completed on schedule. However, the critical task of geotechnical explorations was not completed. Subsequent deadlines were missed. In early September 2003, DDES was informed that the property owner was going to sell the property. As it was clear that further progress would be delayed indefinitely, the application was denied by DDES on October 16, 2003.

Parcel 0626079034 is adjacent to the subject property to the west. It is also owned by Duvall Quarry, LLC. The zoning on the site is RA-10 Potential M. The site is occupied by a Class 1 wetlands and cannot be mined, which is the reason it was not rezoned M along with the subject parcel. Due to the environmental constraints, this parcel should have the Potential M zoning removed.

### **Conclusions:**

RA-10 is the appropriate zoning for the property based on property size and characteristics and the surrounding zoning, consistent with policy R-206.

The Mineral Resource Site designation, the Mining designation on the Comprehensive Plan Land Use Map, and the Mineral zoning were adopted in 1995 with the caveat through the P-suffix condition, that the zoning would revert to RA-10 if an environmental study for Mineral Resource use was not commenced within two years. This evidenced serious concerns about the environmental constraints on the property, and a recognition that if the landowners did not demonstrate through an environmental review that mining was appropriate, the land should be zoned RA-10. Almost nine years later, the required environmental study has not been completed. The environmental review done to date, however, indicates that the property is not suitable for mining.

The re-evaluation required by policy R-555 based on the information garnered by the grading permit application has shown that the property should no longer be designated a Mineral Resource Site. A mineral resource extraction operation could not be commercially viable on the site without irreparably impacting the environment.

Designating the property as a Potential Surface Mineral Resource Site on the Mineral Resources Map is consistent with Policy R-552, which calls for sites that were zoned potential Quarrying/Mining prior to adoption of the 1994 Comprehensive Plan to be designated Potential Surface Mineral Resource Sites.

Changing the designations and zoning for the property will not interfere with King County's responsibility to designate and conserve mineral resource lands that have long term commercial significance for the extraction of minerals. Under WAC 365-190-060, environmental factors are one of the primary criteria for determining when to designate mineral resource lands. The environmental constraints on the property prevent such designation. Further, this change will have a negligible impact on the supply of mineral resources in King County, as this property is but one of many in King County, including the entire Forest Zone, that are available for mining.

As directed by policy R-555, the property should therefore be re-designated Rural Residential, and zoned RA-10, consistent with the surrounding properties. The Mineral Resources Map should be updated, with this property designated a Potential Surface Mineral Resource Site.

The Potential M zoning for the associated parcel 0626079034 should be eliminated because this site is similarly constrained by sensitive areas.

**Executive Staff Recommendation:**

Amend the King County Comprehensive Land Use Map designation for parcel 0626079032 from Mining to Rural Residential.

Amend the zoning designation for parcel 0626079032 from M-P to RA-10, rural residential – one home per ten acres.

Amend the Mineral Resources Map, redesignating this parcel Potential Surface Mineral Resource Site.

Amend the zoning for parcel 0626079034 from RA-10 Potential M to RA-10, eliminating potential zoning for the property.

See the attached maps showing the recommended amendments.